

Appl. No. 10/619,736
Atty. Docket No. CM2503RQ
Amdt. dated July 23, 2007
Reply to Final Office Action mailed 06/12/2007
Customer No. 27752

REMARKS

Formal Matters

No amendments to the instant claims are presented by way of the instant response. Claims 1-12 remain pending in the instant Application and are presented for the Examiner's review in light of the following comments.

Rejection Under 35 U.S.C. §102

Claims 10-11 have been finally rejected under 35 U.S.C. §102(b) over Wells, U.S. Patent No. 3,414,459. In the alternative, Claims 10-11 have been finally rejected under 35 U.S.C. §103(a) over the *Wells* reference. Previous arguments made with regard to the *Wells* reference remain in effect but will not be repeated for the sake of brevity. The Examiner is respectfully requested to reconsider the instant rejection in light of the following additional comments.

Claim 10 of the instant Application claims a tissue paper product made according to the method of instant Claim 1. In short, the subject matter of instant Claim 1 is directed toward a method of making a tissue paper product from a tissue paper web. The method comprises the steps of, *inter alia*, passing the tissue paper web through an embossing nip and then through a calendering nip. The embossing nip is formed between a first and second embossing roll wherein one of the embossing rolls comprises at least thirty embossing elements per square centimeter each having a height of less than about 0.5 mm. The calendering nip exerts a pressure onto the paper web of at least about 120 N/cm.

Again, Applicants are at a loss to understand the Examiner's rejection to Claims 10 and 11 under 35 U.S.C. §102(b). It is clearly settled Federal Circuit law that, "Anticipation based on a printed publication under §102 requires the presence in the publication of **each and every limitation** of the claimed invention." *See Novo Nordisk Pharmaceuticals, Inc. v. Bio-Technology General Corp.*, 424 F.3d 1346 (Fed. Cir. 2005; emphasis added) Since the *Wells* reference clearly does not disclose the application of at least about 120 N/cm of calendering pressure, as required by Applicants' instant Claim 10, the *Wells* reference cannot anticipate Applicants' Claim 10. Therefore, Applicants

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respectfully request withdrawal of the Examiner's rejection under 35 U.S.C. §102(b) to instant Claims 10 and 11.

Furthermore, with regard to the rejection of Claims 10 and 11 under 35 U.S.C. §102(a), Applicants respectfully direct the Examiner's attention to the Specification on page 10, line 1. Applicants state, "The method claimed in the present invention has been found to **increase** the caliper of a paper tissue web by about 10%, sometimes even about 30% and even up to about 40%, about 60%, about 80% or about 100% when comparing the caliper of the untreated web with the caliper of the treated web." (Emphasis added) In other words, Applicants found an increase in the caliper of the paper tissue web of the instant invention.

Conversely, it is clear from the Specification of the *Wells* reference that the calendering step **decreases** the caliper of the structure. For example, *Wells* states that, "The calendering step **decreases** the caliper of the laminated structure to about 50% to about 90%, preferably about 60%, of the caliper of the laminated paper structure formed to result in the present compressible laminated paper structure." (5:39-43; emphasis added) In other words, the processes as disclosed by the *Wells* reference result in a product having a reduced caliper as opposed to those of the claimed instant invention. The Examiner requests that Applicants establish that their product is patentably distinct over the cited reference. Applicants have attempted on numerous occasions to do so. This is even clearly evidenced by the disclosure of the instant Application. Applicants have satisfied their burden and therefore respectfully request withdrawal of the Examiner's 35 U.S.C. §102(a) rejection to instant Claims 10 and 11.

Rejections Under 35 U.S.C. §103

Claims 1-3, 5-9, and 12 have been finally rejected under 35 U.S.C. §103(a) over *Wells*, with or without *Kamps, et al.*, U.S. Patent No. 5,702,571 or *Brown, et al.*, U.S. Patent No. 5,693,403. Additionally, Claims 1-3 and 5-12 have been finally rejected under 35 U.S.C. §103(a) over *Jennings, et al.*, International Publication No. WO 98/58124 in view of *Roussel, et al.*, International Publication No. WO 99/45205 or *Kamps*. Previous arguments presented with regard to the *Wells, Kamps, Brown, Jennings, and Roussel*

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references remain in effect but will not be repeated for the sake of brevity. The Examiner is respectfully requested to consider the following additional comments that clearly distinguish Applicants' claimed invention over the cited prior art.

As disclosed above with regard to the *Wells* reference, the Examiner again alleges that a clear showing, evidence, or other information of unexpected results must be presented in order to determine patentability of the instant Application. As cited above, Applicants respectfully direct the Examiner's attention to Applicants' Specification on page 10 where Applicants state the corresponding **increase** in caliper of the resulting substrate using Applicants' claimed process. Applicants are unsure how to make such findings more clear. Further, as repeated in abundance, the structure presented by the *Wells* process results in a **decrease** in caliper of the laminated structure. If the cited prior art teaches a decrease in structure and the claimed process exhibits an increase in caliper of the resulting structure, the product must be patentably distinct. Applicants claim only that material which they believe to be reasonably allowed under existing law. Inasmuch as the *Wells* reference teaches away from the instant claims and Applicants have provided abundant evidentiary basis exhibiting surprising results, Applicants respectfully request withdrawal of the instant rejections under 35 U.S.C. §103(a) over the *Wells*, *Kamps*, or *Brown* references. This is because the *Wells*, *Kamps*, and *Brown* references cited by the Examiner provide absolutely no teaching, disclosure, or even a modicum of a suggestion to lead one of skill in the art to understand or to have the motivation to use a high calendering pressure in a converting process to provide a very thick, soft, and bulky paper product. Absent such teaching, disclosure, or suggestion, the *Wells*, *Kamps*, or *Brown* references, alone or combination, cannot teach, disclose, or even remotely suggest Applicants' claimed process. Therefore, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to the instant claims over the *Wells*, *Kamps*, and *Brown* references.

Similarly, the *Jennings* reference teaches away from Applicants' claimed process. In short, the *Jennings* process utilizes calendering to reduce sheet thickness. (2:13-14) This is exactly the same situation as presented in the case of the *Wells* reference discussed *supra*. In short, the *Jennings* reference does nothing to increase the caliper of a tissue

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web by the disclosed process but attempts to balance the outcome between embossing heights and roll bog. Since the *Jennings* process, as disclosed, teaches away from Applicants' claimed invention, a *prima facie* case of obviousness cannot be established by the Examiner. Again, Applicants claim only that subject matter to which they believe to be entitled under the law and no more. If the *Jennings* process does not teach, disclose, or suggest Applicants' claimed process and cannot provide a product as claimed by Applicants in the instant Application, Applicants are at a loss to understand how the *Jennings* reference can be considered a reference that can provide a basis for a *prima facie* case of obviousness. Therefore, Applicants respectfully that the instant rejection to Claims 1-3 and 5-12 under 35 U.S.C. §103(a) over the *Jennings*, *Roussel* or *Kamps* references be withdrawn.

Conclusion

Based on all the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512. If any additional charges are due, the Examiner is authorized to deduct such charges from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,

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